

## **1001 Ellesmere Road – Common Elements Condominium Application – Final Report**

Date: January 16, 2020

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Wards: Ward 21 - Scarborough Centre

**Planning Application Number:** 19 212579 ESC 21 CD

### **SUMMARY**

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This application proposes the creation of a common elements condominium for 45 recently constructed townhouse dwelling units at 1001 Ellesmere Road (Block 1). The common elements will consist of the rear driveways providing access from Jolly Way, various acoustical sound barriers, as well as landscaped strips along the east lot line adjacent to the Scarborough RT Line and, including chain link fencing, along the south lot line as well. The application is required to ensure ownership and maintenance of these shared common elements will be assumed by the Common Elements Condominium Corporation when established.

The proposed development is consistent with the Provincial Policy Statement (2014) and conforms with the Growth Plan for the Greater Golden Horseshoe (2019). The creation of the Common Elements Condominium is appropriate for the orderly development of these lands.

This report advises that the Chief Planner may approve the Draft Plan of Condominium (Common Elements). In addition, this report recommends that the City Solicitor be authorized to take the necessary steps to release the Section 118 Restriction from title to the Parcels of Tied Land at such time as confirmation is received that the Common Elements Condominium has been registered.

### **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law 229-2000, as amended, City Council be advised that the Chief Planner and Executive Director, City Planning intends to approve the draft plan of Common Elements Condominium, as generally illustrated on Attachment 2 to this report, subject to:

- a. the conditions, as generally listed in Attachment 3 to this report, which, except as otherwise noted, must be fulfilled prior to final approval and the release of the Plan of Condominium for registration; and
- b. any such revisions to the proposed condominium plan or any such additional or modified conditions as the Chief Planner and Executive Director, City Planning may deem to be appropriate to address matters arising from the on-going technical review of this development.

2. City Council authorize the City Solicitor to take the necessary steps to release the Section 118 Restriction from title to the Parcels of Tied Land at such time as confirmation is received that the Common Elements Condominium has been registered.

## **FINANCIAL IMPACT**

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The recommendations in this report have no financial impact.

## **PROPOSAL**

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The 45 townhouse dwelling units currently under construction along the east and south sides of the property (Block 1) at 1001 Ellesmere Road are intended to be individually owned by the purchasers. This application proposes to establish the following as shared common elements under the ownership and maintenance responsibility of the Common Elements Condominium Corporation when established:

- The driveways providing access to detached rear garages for each unit, connecting to Jolly Way at three points: the north end of Block 1, mid-block between the townhouse blocks oriented north to south and east to west, and at the west end of Block 1;
- Acoustical sound barriers installed in accordance with the approved site plan, including a 7.3 m high wall along the easterly 60 metres, and 3.2 metre high wall along the westerly approximately 15.4 metres, of the south lot line, as well as a 1.8 metre high sound barrier at the north end of the easterly block of townhouses; and
- Landscaped strips beside the driveways along the south lot line (including a 1.8 metre high chain link fence) and the east lot line adjacent to the Scarborough RT Line.

The subject 1.0 hectare (2.5 acre) Block 1 comprises part of the larger 2.76 hectare (6.8 acre) site at 1001 Ellesmere Road previously occupied by a vacant 17 744 square metre (191,000 square foot) building formerly occupied by a metal-stamping assembly plant which ceased operations in 2008. That building has been demolished with construction of the new townhouses on Blocks 1 and 2 now underway. (The rear garages of the townhouse units on Block 2 will be serviced by a rear public lane, without necessitating a similar Common Elements Condominium application.)

Vehicular access to the site from Ellesmere Road (both directions) is provided via the West Service Road under the Ellesmere Road overpass above the adjacent

Scarborough RT and GO Transit rail lines and which provides access directly to the Ellesmere RT Station immediately north-east of the site. A new public street, Jolly Way, provides access into the development from Ellesmere Road.

Surrounding land uses include:

**North:** On the north side of Ellesmere Road is the Fieldstone Commons Care Community nursing home, with the Roadsport Honda car dealership to the west.

**East:** Beyond the SRT and GO Transit line immediately to the east is a recent 162-unit townhouse subdivision, with industrial uses on Midwest Road to the south.

**South:** Immediately south of the site is a large, multi-tenanted industrial building at 1399 Kennedy Road. Kingsmill Foods occupies the rear portion of this building, close to the subject property.

**West:** To the west of the site are commercial uses including Green+Ross Auto Tires and a two storey office building on Ellesmere Road, a used car lot at the south-east corner of Kennedy Road and Ellesmere Road with an RBC bank to south. The property at 1415/1417 Kennedy Road contains a 26-unit commercial condominium.

### **Reasons for Application**

This application is required to establish the internal driveways, acoustic walls, common landscaped areas and fencing described above as common elements to ensure the collective ownership and shared maintenance of these features by the Common Elements Condominium Corporation when established.

## **APPLICATION BACKGROUND**

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On March 31, 2015, City Council adopted the recommendations of the City Solicitor in a Request for Directions Report (with confidential attachment) dated March 25, 2015 to, in part, accept the proposed settlement offer at an April 8, 2015 Ontario Municipal Board ("OMB") hearing to consider the owner's prior appeals of its Official Plan amendment, rezoning and draft plan of subdivision applications. That decision and background information can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC5.14>

On June 2, 2015 the OMB issued its decision allowing the appeals. The Official Plan was amended to establish an expanded *Mixed Use Areas* designation on the eastern portion of the property. The former City of Scarborough Employment Districts Zoning By-law (Dorset Park Employment District) No. 24982, as amended, was further amended to accommodate the new development proposed under the settlement through Commercial Residential (CR) zoning applied to the residential lands. The decision also approved the City's proposed conditions of draft plan of subdivision approval which included, in part, a specific requirement that construction of townhouses on the northerly Block 3, the lands adjacent to Ellesmere Road (West Service Road), is not to proceed until 'substantial completion' (being completion of the building

superstructure, roof, finished exterior cladding and installation of all exterior doors and windows) of the commercial office building on the western portion of the site. This OMB decision is available at:

<http://www.omb.gov.on.ca/pl140391-jun-02-2015.pdf>

The plan of subdivision for the subject property under application 13 268033 ESC 37 SB was registered on June 12, 2019 (Plan 66M-2555). On July 16, 2019, City Council enacted By-law No. 1185-2019 to exempt the subject lands from Part Lot Control for a period of two years from the date of the by-law. The subdivision agreement was registered on October 30, 2019.

### **Application Submission Requirements**

The draft plan of condominium and supporting materials submitted for this application are available at the Application Information Centre (AIC) <https://www.toronto.ca/city-government/planning-development/application-information-centre>

The current application was submitted on August 27, 2019 and was deemed to be complete as of that date.

### **Agency Circulation Outcomes**

The application together with the applicable materials noted above, have been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate conditions of Draft Plan of Condominium approval as set out in Attachment 3: Draft Plan Approval Conditions.

## **POLICY CONSIDERATIONS**

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### **Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans**

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

### **The Provincial Policy Statement (2014)**

The Provincial Policy Statement (2014) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;

- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

### **The Growth Plan for the Greater Golden Horseshoe (2019)**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (the "Growth Plan (2019)") came into effect on May 16, 2019. This new plan replaces the previous Growth Plan for the Greater Golden Horseshoe, 2017. The Growth Plan (2019) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan, 2019 establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the *Planning Act* that comprehensively applies the policies and schedules of the Growth Plan (2019), including the establishment of minimum density targets for and the delineation of strategic growth areas, the conversion of provincially significant employment zones, and others.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and a vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;  Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, and recreation and green space that better connect transit to where people live and work;

- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

The Growth Plan (2019) builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2019) take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

### **Toronto Official Plan**

This application has been reviewed against the policies of the City of Toronto Official Plan as follows:

The current applications are located on lands now shown as *Mixed Use Areas* on Land Use Map No. 20. As amended through Official Plan Amendment 231, the westerly adjacent lands also at 1001 Ellesmere Road are designated *General Employment Areas*.

The *Mixed Use Areas* designation provides for a broad range of commercial, residential and institutional uses, in single-use or mixed-use buildings, as well as parks, open spaces and utilities. Section 4.5.2 includes development criteria in *Mixed Use Areas*, which direct that new development:

- a) Create a balance of high quality commercial, residential, institutional and open space uses that reduce automobile dependency and meet the needs of the local community;
- b) Provide for new jobs and homes for Toronto's growing population, creating and sustaining well-paid, stable, safe and fulfilling employment opportunities;
- c) Locate and mass new buildings to provide a transition between areas of different development intensity and scale by providing appropriate setbacks and/or stepping down of heights, particularly towards lower scale *Neighbourhoods*;
- d) Locate and mass new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*;
- e) Locate and mass new buildings to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and opens spaces;
- f) Provide an attractive, comfortable and safe pedestrian environment;
- g) Take advantage of nearby transit services;

- h) Provide good site access and circulation and an adequate supply of parking for residents and visitors;
- i) Locate and screen service areas, ramps and garbage areas to minimize the impact on adjacent streets and residences; and
- j) Provide indoor and outdoor recreation space for building residents in every significant multi-unit residential development.

The subject lands are also subject to Site and Area Specific Policy No. 457 applied through Official Plan Amendment 231 which states:

- a. Employment uses on the portion of the site designated *General Employment Areas* will be compatible with adjacent residential and other sensitive uses;
- b. Residential uses on the portion of the site designated *Mixed Use Areas* will be compatible with the new residential development east of GO/ LRT corridor, in terms of height, massing and the provision of landscaped space;
- c. Residential uses will be appropriately set back and buffered from the GO/ SRT corridor to the satisfaction of the City;
- d. A feasibility analysis and impact assessment as per Section 4.10.3 of the province's D-6 Guidelines for Compatibility Between Industrial Facilities and Sensitive Land Uses is to be completed and necessary mitigation measures will be incorporated into the development design for residential and other sensitive uses, to the satisfaction of the City; and
- e. Development of the site will create an attractive and comfortable public realm along the Ellesmere Road (West Service Road) and enhance accessibility to public transit.

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

## **Zoning**

The subject Block 1 lands at 1001 Ellesmere Road are zoned Residential Townhouse Zone ( RT) which permit a maximum of 45, 3-storey (14.0 metre high) townhouse-only dwelling units. All remaining applicable zoning criteria and performance standards relating to such matters as required building setbacks, permitted building projections, minimum frontage and building separation requirements, etc. are satisfied consistent with the above noted site plan approval.

## **Site Plan Control**

A Site Plan Control Application (file no. 15 200160 ESC 37 SA) proposing townhouses on Blocks 1, 2 and 3 of the subject site was submitted on July 31, 2015. On December 21, 2018, the Director, Community Planning, Scarborough District issued Notice of Approval Conditions ("NOAC") in regard to Blocks 1 and 2 only. As timing for construction of the commercial building remains uncertain, Block 3 was not included in this NOAC. The three acoustical barrier common elements referenced in this report, as

recommended by the owner's noise consultant to mitigate impacts from adjacent transit rail lines and industrial uses, and which are now installed, was required under this NOAC.

The final Statement of Approval of the site plan for Blocks 1 and 2 was issued by the Director, Community Planning, Scarborough District on July 10, 2019, with the site plan agreement itself registered on October 30, 2019. The subdivision agreement was also registered on this date.

## **COMMENTS**

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### **Provincial Policy Statement and Provincial Plans**

The proposal has been reviewed and evaluated against the PPS (2014) and the Growth Plan (2019). Staff have determined that the proposal is consistent with the PPS and conforms with the Growth Plan (2019).

Both the PPS and the Growth Plan encourage intensification and redevelopment in urban areas. In accordance with Policy 1.1.3.6 of the PPS, the proposed townhouse development promotes intensification through a compact urban form. Policy 1.1.3.2 of the PPS states that development shall make efficient use of land and resources, infrastructure and public service facilities. Policy 1.1.1 of the PPS states that "healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) promoting cost-effective development patterns and standards to minimize land consumption and servicing costs; and
- h) promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate."

The proposal promotes a diversity of housing stock, and is directly adjacent to the Ellesmere RT Station. The proposal is consistent with the PPS and conforms to the Growth Plan. The creation of the Common Elements Condominium would allow for the orderly development of the lands.

### **Land Use**

This application has been reviewed against and complies with all official plan policies, zoning provisions and the subdivision approval creating Block 1 discussed above.

### **Open Space/Parkland**

Consistent with Official Plan policies to ensure that Toronto's systems of parks and open spaces are maintained, enhanced and expanded, a new 1,320 square metre public park has been secured on this site through the above noted subdivision approval. The park is located on Jolly Way at the west side of Blocks 2 and 3, opposite the western end of the subject townhouses on Block 1.



## **Conclusion**

The proposal has been reviewed against the policies of the PPS (2014), the Growth Plan (2017), the Greenbelt Plan (2019) and the Toronto Official Plan. Staff are of the opinion that the proposal is consistent with the PPS (2014) and does not conflict with the Growth Plan (2019). Furthermore, the proposal is in keeping with the intent of the Toronto Official Plan.

Staff recommend that Council support approval of the application in accordance with the proposed approval conditions set out in Attachment 3: Draft Plan Approval Conditions.

## **CONTACT**

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Rod Hines, Principal Planner, Community Planning, Scarborough District, Tel. No. 416-396-7020, E-mail: [Rod.Hines@toronto.ca](mailto:Rod.Hines@toronto.ca)

## **SIGNATURE**

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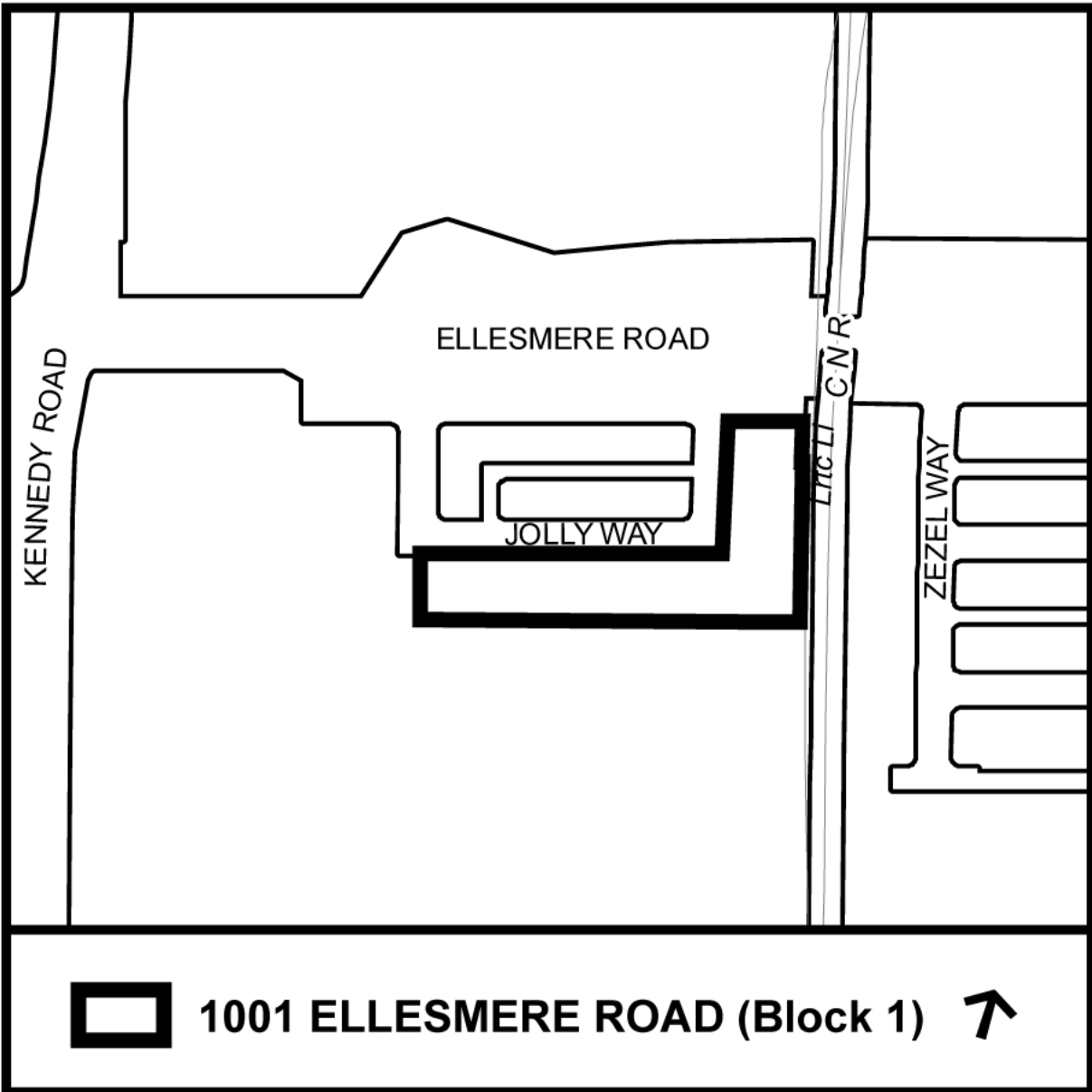
Paul Zuliani, MBA, RPP, Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

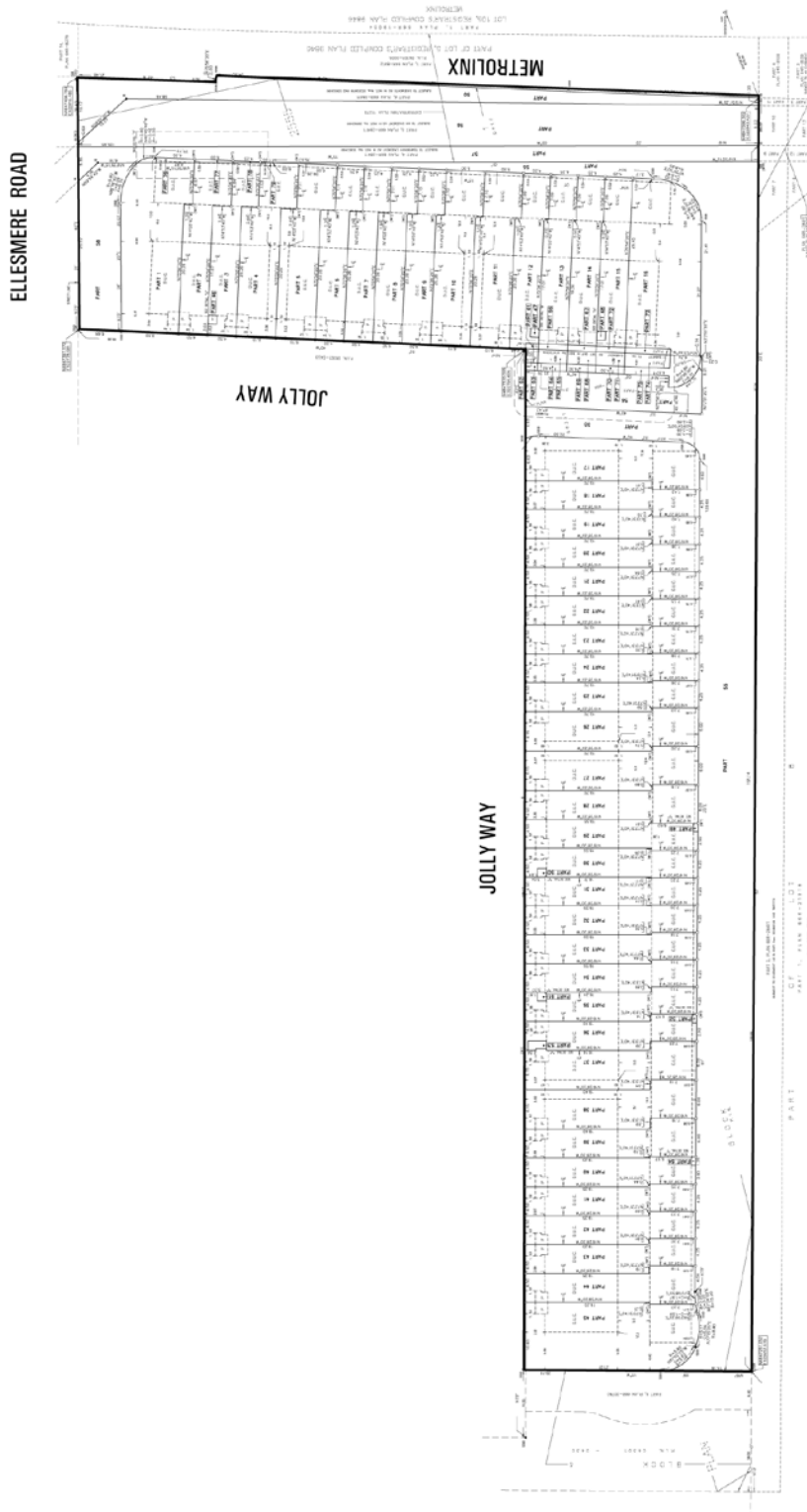
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Attachment 1: Location Map  
Attachment 2: Draft Plan of Common Elements Condominium  
Attachment 3: Draft Plan Approval Conditions

Attachment 1: Location Map



# Attachment 2: Draft Plan of Common Elements Condominium



### **Attachment 3: Draft Plan Approval Conditions**

Prior to registration of the Common Element Condominium:

1. The owner shall provide to the Director, Community Planning, Scarborough District, confirmation of payment of outstanding taxes to the satisfaction of Revenue Services, City of Toronto (statement of account or Tax Clearance Certificate).
2. All Site Plan matters and facilities have been completed or financially secured to the satisfaction of the City.
3. The owner shall file with the Director, Community Planning, Scarborough District, a copy of the final Declaration and Description containing all necessary schedules and certifications required by the Condominium Act for registration.
4. Together with the final version of the Declaration, the Owner shall provide a solicitor's undertaking indicating that:
  - a. the Declaration provided to the City is the final Declaration to be submitted for registration, subject only to changes requested by the Land Registrar;
  - b. the City will be notified of any required changes prior to registration; and
  - c. forthwith following registration of the Declaration, a copy will be provided to the City.
5. Visitors parking spaces will be clearly delineated on the condominium plan to be registered.
6. If the condominium is not registered within 5 years of the date of draft plan approval, then this approval shall be null and void and the plans and drawings must be resubmitted to the City for approval.
7. The Owner's solicitor shall provide a certification letter to confirm that a Cost Sharing Agreement is registered over Part 6, Plan 66R-30783, between Block 4 (adjacent property owner to the west) and the Owner of Parcels of the tied lands (POTLs) to grant rights-of-way vehicle (including emergency vehicles) and pedestrian access to the latter.
8. The Owner shall submit to the Director of Community Planning, Scarborough District, certification from the applicant's solicitor that a full disclosure was included in the Purchase and Sale Agreement for the future Owners of the Parcels of the tied lands (POTLs) to the Common Element Condominium (CEC) to inform them of their obligations and liability to ensure the safe operations, maintenance and good repairs within the private road.
9. The Owner's solicitor shall submit a copy of the relevant section(s) of the proposed Condominium Declaration that disclose(s) the obligations and liability of the future Owners of the Parcels of the tied lands (POTLs) to a Common Element Condominium (CEC) to ensure the maintenance, repair, replacement of the common underground site services, sewers and stormwater management shared facilities, located within the

private road and the private fire hydrant located on the west side of the Block 1 and north side of the private road.

10. The Owner's solicitor shall submit a copy of the relevant section(s) of the proposed Condominium Declaration that disclose(s) the Common Element condominium corporation responsibility that there should not be any encroachments to the municipal sewer easements located within the private road identified as Parts 1- 5, Plan 66R-30972.

11. Prior to the registration of the plan of common element condominium, the Owner shall provide certification to the Chief Engineer & Executive Director, Engineering and Construction Services from the Professional Engineer who designed and supervised the construction, confirming that the stormwater management facilities and site grading have been constructed in accordance with the accepted Stormwater Management Report and the accepted Grading Plans.

12. The Owner shall provide certification to the Chief Engineer & Executive Director of Engineering and Construction Services from the Professional Engineer who designed and supervised the construction, confirming that the site servicing facilities have been constructed in accordance with the accepted drawings.

13. The Owner shall submit an application to Toronto Water (Environmental Monitoring & Protection) for any permanent dewatering system that is required for the building, and enter into an agreement and/or permit to discharge groundwater as required by the General Manager, Toronto Water.

14. The Owner shall submit a copy of the relevant section(s) of the proposed Condominium Declaration that disclose(s) the obligations of the Owner in respect of the discharge of groundwater ("Private Water") to a City sewer pursuant to Toronto Municipal Code Chapter 681, to the satisfaction of the Chief Engineer & Executive Director, Engineering and Construction (Post-approval Site Plan Condition No. 23).

15. The Owner to provide the following certifications required under the registered Site Plan Agreement to the satisfaction of the Chief Engineer & Executive Director, Engineering and Construction:

- a. Stormwater Management Certification;
- b. Site-Servicing Certification;
- c. Site-Grading Certification; and
- d. Solid Waste Management Certification.